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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

In the Matter of SBC Communications Inc. -  
 Ownership of Certain Advanced Services Equipment  
 Under the SBC-Ameritech Merger Conditions

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CC Docket No. 98-141

ASD File No. 99-49

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MAR 10 2000

**REPLY COMMENTS OF MCI WORLDCOM, INC.**

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

Comments on the pending requests of SBC Communications Inc. ("SBC") underscore that interpretation and possible modification of the ownership requirements in the Merger Conditions<sup>1</sup> are only two of the critical issues raised by SBC's plans to re-architect its local networks in ways that would fundamentally affect the prospects for competition in advanced services. MCI WORLDCOM, Inc. ("MCI WorldCom") respectfully submits that these comments confirm the urgent need for the Commission to develop both a substantive and a procedural framework in which these issues can be resolved on a comprehensive and expedited basis.

Different commenters interpret the Merger Conditions differently with respect to whether they require SBC incumbent local exchange carriers ("ILECs") to own combination plugs/cards ("ADSL cards") in remote terminals ("RTs"). However, the separate affiliate requirements are only a means to the end of effective enforcement of the unbundling and nondiscrimination requirements in section 251(c) of the Communications Act, 47 U.S.C. § 251(c), and commenters generally agree on the underlying substantive principles:

- Regardless of whether SBC ILECs or their advanced services affiliates own ADSL cards, these cards, and the digital loop carriers ("DLCs") into which they are plugged, perform

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<sup>1</sup> See *Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines*, 14 FCC Rcd 14712, App. C (1999) (respectively "*SBC-Ameritech Order*" and "*Merger Conditions*").

an integral role in the ability of competitive local exchange carriers (“CLECs”) to offer the advanced services they seek to provide. Without the ADSL cards of their choice and without nondiscriminatory access to DLCs and RTs, CLECs’ ability to offer these services to the large percentage of customers that SBC plans to serve through RTs would be severely impaired. AT&T Comments 7-8.<sup>2</sup>

- Regardless of whether SBC ILECs or their advanced services affiliates own ADSL cards, SBC has an obligation under section 251(c) to provide unbundled access to loops and subloop elements through RTs, including the high-frequency path of loops used to provide advanced services in a line-sharing arrangement. To the extent that CLECs need access to RTs, DLCs, ADSL cards, and associated Operations Support Systems (“OSS”) in order to exercise their rights under section 251(c), SBC must provide it on reasonable, nondiscriminatory, and cost-based terms, and SBC must provide access to these unbundled network elements (“UNEs”), including OSS, in the same way whether the ILEC or its advanced services affiliate owns the equipment needed for nondiscriminatory unbundled access. *See generally* ALTS Comments 1, 4, 8-9, 13; AT&T Comments 3, 9-10, 11-12; DATA Comments 4, 12; Prism Comments 4. Even Bell Atlantic and GTE agree that SBC’s advanced services affiliate and unaffiliated CLECs should get “the same access to telephone company facilities and services.” Bell Atlantic-GTE Comments 2. To the extent that an SBC advanced services affiliate owns this equipment, it is subject to the unbundling and nondiscrimination requirements of section 251(c). AT&T Comments 9 n.21 (citing *SBC-Ameritech Order* ¶ 365 n.682).

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<sup>2</sup> All cites to comments are to comments filed in this proceeding on March 3, 2000, and use the common name of the commenting party.

- Regardless of whether SBC ILECs or their advanced services affiliates own ADSL cards, SBC has an obligation under section 251(c) to allow CLECs to collocate in RTs on reasonable and nondiscriminatory terms and conditions. ALTS Comments 8, 12; DATA Comments 12, 15; MGC Comments 4.
- Regardless of whether SBC ILECs or their advanced services affiliates own ADSL cards, SBC has an obligation under section 251(c) to allow CLECs that provide voice services using a platform of combined UNEs (“UNE-P”) to provide advanced services to their voice customers. AT&T Comments 12-13.
- Regardless of whether SBC ILECs or their advanced services affiliates own the ADSL cards used in connection with SBC’s advanced services customers, SBC should give CLECs the same opportunity that SBC gives itself to specify the technical parameters of these cards, and CLECs that prefer to own the cards themselves, rather than lease the use of cards owned by SBC ILECs, should have that option. Unaffiliated CLECs should have the same chance to pursue their advanced services strategies that SBC gives itself to pursue its strategy, and SBC may not dictate whether or how CLECs provide competing advanced services. ALTS Comments 7 (citing the *Advanced Services First Report and Order*); AT&T Comments 14-18; DATA Comments 15-17; MGC Comments 4-5; Prism Comments 6-8.

Whether the Commission concludes that SBC ILECs or their affiliates should own these ADSL cards, the Commission should affirm these basic principles and not permit assignment of ownership of ADSL cards to affect whether or how SBC complies with its obligations under section 251(c) and the Commission’s orders. The Commission should interpret the Merger Conditions, and adjudicate modification requests, in a way that maintains or enhances SBC’s

compliance with its duties under the statute and regulations. The comments demonstrate, at a minimum, serious questions about SBC's compliance with the unbundling and nondiscrimination requirements in the Merger Conditions, the Telecommunications Act of 1996, and the Commission's implementing regulations. CLECs, including MCI WorldCom, are currently pursuing discussions with SBC to try to reach agreement on the terms on which SBC will provide unbundled access to, and collocation in, RTs.<sup>3</sup> Commission guidance on these basic principles will facilitate a negotiated resolution of these issues.

Equally important, the Commission should provide this guidance *now*. First, the industry discussions that Commission direction would assist are now on-going. Second, the longer it takes for SBC to provide access on nondiscriminatory terms, the longer competition will be delayed, and the harder it will be for regulators to undo the restrictive and discriminatory approach that SBC appears to be implementing. It is better for consumers, better for competition, and better for SBC to establish the ground rules now while SBC is in the early stages of developing and deploying a new network architecture.

Procedurally, the Commission could address these threshold issues in a variety of ways. DATA and ALTS propose that the Commission initiate an expedited investigation into the full set of issues raised by SBC's new network design and deployment. ALTS Comments 2, 12-13; DATA Comments 21-22. The Commission could convene or initiate a technical forum or collaborative, with participation by Commission and state commission staff, to work through the issues and determine what is technically feasible and how to implement technical alternatives. *See*

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<sup>3</sup> On March 3, as a follow-up to the session in Texas hosted by SBC and attended by MCI WorldCom and several other CLECs, MCI WorldCom sent to SBC additional written questions concerning SBC's plans and three proposals for alternative network arrangements that support subloop unbundling with RTs. SBC has not yet responded or informed MCI WorldCom when it will respond.

DATA Comments 21. It is appropriate to address the issues in this docket because SBC's actions to date raise troubling questions about SBC's compliance with the separation and nondiscrimination requirements of the Merger Conditions. Each of these procedural options has its advantages, and the Commission has broad discretion to design the most efficient and expeditious process.

DATA Comments 21. It is frankly less important which particular option the Commission chooses than that the Commission choose promptly and complete the process quickly.

Finally, with respect to ownership of optical concentration devices ("OCDs"), there does not appear to be substantial objection to SBC ILECs owning this equipment. The comments generally recognize the essential role that OCDs will play in allowing CLECs to interconnect with SBC's local network to provide advanced services, and thereby underscore the need for the two conditions proposed by MCI WorldCom: (1) whether or not equipment such as OCDs used by SBC to provide unbundled access to CLECs is classified as advanced service equipment, and whether or not an SBC ILEC or advanced services affiliate owns the equipment, SBC should provision and price the UNE as if the ILEC owns the underlying equipment (*see* DATA Comments 9-10); and (2) SBC must allow CLECs to collocate switching equipment in ILEC central offices, whether or not the equipment performs interconnection as well as switching functions.

In summary, the Commission should compile the record needed to determine whether ADSL cards in RTs fall within the Merger Condition's definition of Advanced Services Equipment and whether SBC has justified any modification of the Merger Condition's ownership requirements. Equally important, the Commission should also address the more fundamental implications of SBC's plan to re-engineer its monopoly local networks in ways that will profoundly affect the development of competition in advanced services. MCI WorldCom shares

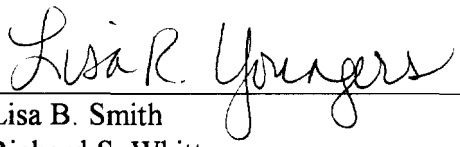
SBC's goal of accelerating deployment of advanced capabilities, and SBC can and should carry out its plans consistent with the procompetitive requirements of the Telecommunications Act and the Merger Conditions.

Respectfully submitted,

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Dated: March 10, 2000

## **CERTIFICATE OF SERVICE**

I, Lonzena Rogers, do hereby certify, that on this tenth day of March, 2000, I caused to be delivered by hand, a true and correct copy of MCI WorldCom, Inc.'s Reply Comments in the matter of SBC's Request For Interpretation, Wavier, or Modification of the SBC/Ameritech Merger Conditions to be served on the following:


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